

REMARKS

In light of the Office Action's notice regarding trademark usage in the present application, selected paragraphs in the specification have been amended in accordance with the Examiner's request.

Claims 1-22 are currently pending in the application. Claims 1 and 20 are in independent form.

Claims 1-22 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Reconsideration of the rejection is respectfully requested.

The Office Action has held that the presently pending claims are directed to software *per se*, and additionally, that the specification does not refer to an appropriate medium or hardware elements. The claims (specifically independent claims 1 and 20) have been amended to further reflect the presence of the hardware elements of the present invention. Respondent points to Paragraph [0019] of the present application's specification, which refers directly to the system of the present invention including "...a web and/or encrypted satellite and/or server interface and/or existing system..." Furthermore, the specification refers to "...a variety of viewing equipment types including, but not limited to on-board computer (i.e. ONSTAR.TM.), PDAs, phones (both cell and land line), touch screen monitors, and viewable glasses." – all of which are hardware elements which enable the operation of the operation of the software elements of the present invention. In light of the amended claims which reflect the

specification's reference to various hardware elements, reconsideration of the rejection is respectfully requested.

Claim 18 stands rejected under 35 U.S.C. § 112 as being indefinite. This claim has been amended to overcome this rejection.

Claims 1-6 and 17-21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,977,529 to Gregg, et al. Reconsideration of the rejections is respectfully requested.

In Richardson v. Suzuki Motor Co., Ltd., 868 F.2d 1226, 9 U.S.P.Q.2d 1913 (Fed. Cir. 1989) it was stated: "Every element of the claimed invention must be literally present, arranged as in the claim.

The Office Action has held that the Gregg patent discloses an automated three-dimensional data access system, comprising manipulating means for virtually manipulating, testing, and controlling the three-dimensional and related data.

When read more specifically, the Gregg patent defines its purpose as being a training simulator "...for **simulating the real-time dynamic operation of a nuclear power plant** wherein a digital computer arrangement accepts input data from manually operable devices corresponding to simulated plant control devices, calculates physical values relating to the dynamic operation in real-time of the simulated plant to provide output data for operating indicating devices for monitoring the operation of the plant." (Gregg, column 3, line 65 – column 4 line 5, emphasis added). This objective – **simulating** the operation of a nuclear power plant using a digital computer – is entirely distinct from the stated objective and

purpose of the presently pending application, which is to provide "...an automated three-dimensional and related data access system...for virtually manipulating, testing, and controlling the three-dimensional and related data." (Paragraph [0008], emphasis added)

Furthermore, in citing the Gregg patent as a basis for the 35 U.S.C. § 102(b) rejection, the Office Action repeatedly references two of the patent's passages which refer to the term "three dimension." The first reference, Gregg, Column 184, lines 23-38, refers vaguely to monitoring a reactor "...in real-time and in three dimension..." The Office Action's second reference, Gregg, Column 185, lines 39-61, further elaborates: "The physical operation of the reactor is modularized into several different models to provide for three dimensional simulation ... The three dimensional aspect is introduced ... to simulate the flux tilt distribution for the individual models that simulate the nuclear instrumentation..." The Gregg references cited in the Office Action explicitly refer to a form of "three dimensional simulation" which is used as part of Gregg's training simulator.

Conversely, the system of the present application is directed not to the basic three dimensional simulation found in Gregg, rather to the "manipulating, testing, and controlling [of] three-dimensional and related data" (Paragraph [0008], emphasis added). Indeed, basic three-dimensional simulation is a widely known and implemented effect in many areas of computing and imaging. The present invention is directed not simply to three-dimensional simulation, but to the advanced and complex manipulation, testing, and controlling, of three-

dimensional models, files, and simulations. Furthermore, in Paragraph [0017] of the present application, several of the three-dimensional functionalities of the present invention are enumerated, including "...altering the object (model)..., dissecting (i.e. removing parts of the object to view other parts located behind the removed parts), rotating the object...." These functionalities, which represent in part the significance and novelty of the present invention, are far beyond the scope of the common three dimensional simulation referenced in Gregg.

Additionally, it should be noted that the Gregg patent was originally filed on February 23, 1973. In 1973 the technology of computing was simply not developed to the point where it could have envisioned or anticipated the system and method of the present invention, which presumes advanced contemporary computing methods, systems, and approaches.

In light of the above distinctions and novelty present in the present invention beyond that which is described in the prior art, reconsideration of the rejection is respectfully requested.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatnetable over U.S. Patent No. 4,977,529 to Gregg, et al in further view of U.S. Patent No. 4,480,480 to Scott. Reconsideration of the rejection is respectfully requested.

Additionally, claims 8-16 stand rejected under 35 U.S.C. § 103(a) as being unpatnetable over U.S. Patent No. 4,977,529 to Gregg, et al in further view of U.S. Patent No. 4,480,480 to Scott, and further in view of U.S. Patent Application No. 20020161533 to Uegaki. Reconsideration of the rejections is also respectfully requested.

Additionally, claim 22 stands rejected under 35 U.S.C. § 103(a) as being unpatnetable over U.S. Patent No. 4,977,529 to Gregg, et al in further view of U.S. Patent No. 6,670,908 to Wilson. Reconsideration of the rejection is also respectfully requested.

As outlined above, the system and method described in the presently pending application are distinct from and wholly beyond the scope of the training simulator referenced in the Gregg patent. In light of this distinction, respondent respectfully asserts that the Examiner's combinations of the Gregg patent together with additional patent references are thus rendered moot. As such, reconsideration of the rejections is respectfully requested.

The remaining dependent claims not specifically discussed herein are ultimately dependant on the independent claims. References as applied against these dependent claims do not make up for the deficiencies of those references as discussed above, and the prior art references do not disclose the characterizing features of the independent claims as discusses above. Hence, it is respectfully submitted that all of the pending claims are patentable over the prior art.

In conclusion, it is respectfully submitted that the presently pending claims are in condition for allowance, which allowance is respectfully requested. Applicant respectfully requests to be contacted by telephone at (248)539-5050 if any remaining issues exist.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

KOHN & ASSOCIATES, PLLC



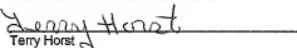
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